

RESOLUTION NO. 2015-10

A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING THE BID OF E & M EQUIPMENT CORP. FOR OUTFALL O-15R IMPROVEMENTS WITHIN DRAINAGE BASIN 8 AT 398 HARBOR DRIVE (“PROJECT”); AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR SUCH PROJECT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 3.07(b) of the Charter of the Village of Key Biscayne, Florida (“Village”), the Village Council desires to authorize the expenditure of Village funds for the capital project consisting of the restoration of an existing outfall (O-15R) within Drainage Basin 8 at 398 Harbor Drive (the “Project”); and

WHEREAS, on December 19, 2014, the Village of Key Biscayne (“Village”) issued an Invitation to Bid (“Bid”) for the Project; and

WHEREAS, in response to the Bid, E & M Equipment Corp. (“Contractor”) submitted a bid for the Project requested; and

WHEREAS, after review and evaluation of the bids submitted in response to the Bid, the Village Manager recommends that the Contractor be selected to perform the Project as the lowest, responsive and responsible bidder; and

WHEREAS, the Village Council desires to select and award the contract to Contractor to perform the Project in the amount of \$143,540.00, and authorizes the Village Manager to execute the Contract for Construction (the “Contract”) in substantially the form attached hereto as Exhibit “A”; and

WHEREAS, the Village Council finds that it is in the best interest of the Village to authorize and award the Contract for the Project to Contractor, and proceed as indicated in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE
OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

Section 1. Recitals Adopted. That each of the recitals stated above is hereby adopted and confirmed.

Section 2. Selection of Bidder and Award of Contract. That the selection and award of the Contract for the Project to Contractor is approved.

Section 3. Capital Project Authorizing Resolution. That pursuant to Section 3.07(b) of the Village Charter, this Resolution shall constitute a Capital Project Authorizing Resolution. The capital Project is the implementation of the Project in the amount of \$143,540.00.

Section 4. Contract Approved; Authorization to Execute Contract. That the Contract, substantially in the form attached hereto as Exhibit "A", between Contractor and the Village for the Project is hereby approved. The Village Manager is hereby authorized to execute the Contract and related or necessary documentation on behalf of the Village, once approved as to form, content and legal sufficiency by the Village Attorney.

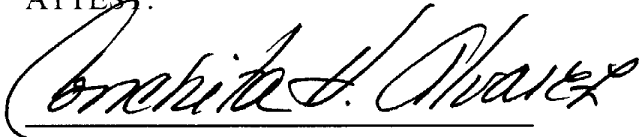
Section 5. Implementation. That the Village Manager is hereby authorized to take any and all action necessary to implement the Project and the purposes of this Resolution.

Section 6. Effective Date. That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this 24th day of February, 2015.

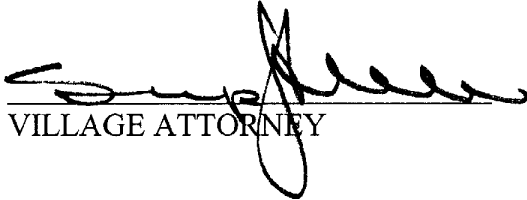

MAYOR MAYRA PEÑA LINDSAY

ATTEST:

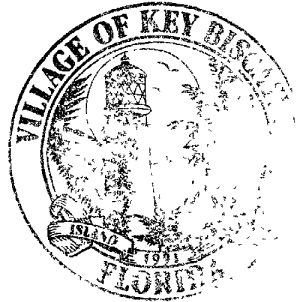


CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY



VILLAGE ATTORNEY



CONTRACT FOR CONSTRUCTION

THIS CONTRACT FOR CONSTRUCTION (this "Contract") is made by and between the **VILLAGE OF KEY BISCAYNE, FLORIDA**, a Florida municipal corporation (hereinafter referred to as "Village"), and **E & M EQUIPMENT CORP.**, a Florida corporation, whose mailing address is 3450 West 84th Street, Suite 202B, Hialeah, Florida 33018 (hereinafter referred to as "Contractor").

WITNESSETH

WHEREAS, in response to the Village's Invitation to Bid issued on December 19, 2014, Contractor submitted a proposal for the Project (as hereinafter defined);

WHEREAS, Contractor and Village, for the considerations hereinafter named, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

ARTICLE 1

SCOPE OF WORK

- 1.1 Contractor hereby agrees to furnish all of the labor, materials, equipment, services and incidentals necessary to perform the totality of the obligations imposed upon the Contractor and all of the work for the **OUTFALL O-15R WITHIN DRAINAGE BASIN 8 AT 398 HARBOR DR** (the "Work" or "Project") in accordance with and as described in the Plans and Specifications and Project Manual prepared by Tetra Tech dated December, 2014 (hereinafter the "Contract Documents" as defined in Section 4.1) incorporated herein by reference and made a part hereof.

ARTICLE 2

CONTRACT TIME

- 2.1 Contractor shall be instructed to commence the Work by written instructions in the form of a Notice to Proceed providing a commencement date and issued by the Village Manager. The Notice to Proceed will not be issued until Contractor's submission to Village of all required documents, including permits(s), and after execution of this Contract.
- 2.2 The Contractor shall prosecute the Work with faithfulness and diligence and the Work shall be substantially completed within Seventy-Five (75) calendar days from the date specified in the Notice to Proceed ("Substantial Completion") so that the Village may occupy and use all or a portion of the Project for its intended purpose. Achievement of Substantial Completion requires acceptance by the Village that the Work is complete and in accordance with the Contract Documents so that the Village may occupy and use the Project for the purpose and use for which it was

intended, and the permitting governmental authorities shall have issued final inspection and approval. The Work shall be fully completed in accordance with the Contract Documents within One-hundred and five (105) calendar days from the date specified in the Notice to Proceed ("Final Completion"), and on the date agreed to by Village when all Work has been completed in accordance with the Contract Documents, including the satisfaction of all requirements in Section 3.3 of this Contract for final payment.

- 2.3 Time is of the essence throughout this Contract and there will be monetary damage to the Village in the event that the Work is not completed within the time fixed for completion in this Contract. In as much as the actual damages for such delay of performance is impossible to exactly determine, Contractor agrees that it shall be liable for and shall pay Village liquidated damages for all delay damages as set forth herein. Upon failure of Contractor to achieve Substantial Completion of the Contract within Seventy-Five (75) calendar days from the date specified in the Notice to Proceed, Contractor shall pay to Village the sum of Five Hundred Dollars (\$500) for each calendar day that the Contractor failed to achieve Substantial Completion. After Substantial Completion, should Contractor fail to complete the remaining Work and achieve Final Completion within One-hundred and five (105) calendar days from the date specified in the Notice to Proceed, Contractor shall pay to Village the sum of Five Hundred Dollars (\$500) for each calendar day after Substantial Completion that the Project has not achieved Final Completion and readiness for final payment. These amounts are not penalties but are liquidated damages payable by Contractor to Village for the failure to provide full beneficial occupancy and use of the Project as required. Liquidated damages are hereby fixed and agreed upon between the parties who hereby acknowledge the difficulty of determining the amount of damages that will be sustained by Village as a consequence of Contractor's delay and failure of Contractor to complete the Work on time.
- 2.4 Village shall inspect the Work and prepare and deliver to the Contractor a punchlist for the Work or portion thereof ("Punchlist"), which was inspected. This Punchlist shall list all items that Village has identified for correction or completion. When all items listed on the Punchlist have been corrected or completed to the satisfaction of Village, Village may certify Final Completion. Contractor understands and agrees that Final Completion cannot occur until such time as the Punchlist Work has been completed so that the Project can be occupied and used by Village for its intended purpose without disruption to Village.
- 2.5 Village is authorized to deduct the liquidated damages from monies due to Contractor for the Work under this Contract. In case the liquidated damage amount due to Village by Contractor exceeds monies due Contractor from Village, Contractor shall be liable and shall immediately upon demand by Village pay to Village the amount of said excess.

ARTICLE 3

CONTRACT PRICE

- 3.1 Village shall pay to Contractor for the performance of the Contract, the total lump sum of ONE HUNDRED FORTY THREE THOUSAND, FIVE HUNDRED FORTY DOLLARS (\$143,540.00) (the "Contract Price"). The Contract Price shall be full compensation for all services, labor, materials, equipment and costs, including overhead and profit, associated with completion of all the Work in full conformity with the Contract Documents and adjusted only by written change orders signed by both parties and approved as required by local law.
- 3.2 Village shall pay the Contract Price above pursuant to the following schedule:
- The Contract Price shall be paid to Contractor upon Final Completion of the Work in accordance with the Contract Documents and acceptance by the Village and upon certification by the Village's Project Consultant that the Work is complete and in accordance with the Contract Documents ("Certification of Final Completion").
- 3.3 Upon Certification of Final Completion by the Village, the Contract Price shall be due and payable to Contractor within thirty (30) days after the following conditions are satisfied:
- (a) Inspection and submission of evidence of approval of all the Work requiring inspection by the Village and any governmental body, inspection organization, bureau or association having jurisdiction over the Work, within Contractor's responsibilities under this Contract;
 - (b) Owner's approval of Contractor's final Application for Payment;
 - (c) Assignment of all manufacturer's warranties or assignment of subcontractor's warranties on material or equipment installed;
 - (d) Final disbursements which are related to the performance of the Work by Contractor or its subcontractors, sub-subcontractors, laborers or material suppliers;
 - (e) Final waivers of lien from the Contractor and all vendors and subcontractors which have provided labor and/or materials for performance of the Work which shall accompany Contractor's application for final payment;

- (f) Contractor obtaining a certificate of completion or occupancy, as may be required;

It is mutually agreed that no payment made under this Contract shall be evidence of acceptance of defective or improper materials or workmanship.

- 3.4 Any payment by Village, including the final request for payment, does not constitute approval or acceptance by Village of any item of the Work nor shall it be construed as a waiver of any of the Village's rights hereunder or at law or in equity.
- 3.5 This Contract is subject to the condition precedents that: (i) Village funds are available and budgeted for the Contract Price; (ii) the Village secures and obtains any necessary grants or loans for the accomplishment of this Project pursuant to any borrowing legislation adopted by the Village Council relative to the Project; and (iii) Village Council enacts legislation which awards and authorizes the execution of this Contract, if such is required.

ARTICLE 4

CONTRACT DOCUMENTS

- 4.1 The Contract Documents, which comprise the entire agreement between the Village and the Contractor concerning the Work consist of (a) this Contract for Construction (including any change orders and amendments thereto), (b) the Plans and Specification and Project Manual, including all bidding documents or procurement documents for the Project, (c) the Contractor's bid or proposal for the Project, (d) Insurance Certificates, (e) Performance and Payment Bonds, (f) the Notice of Award, and (g) the Notice to Proceed, all of which are deemed incorporated into and made a part of this Contract by this reference and govern this Project. In the event of any conflict among the foregoing, the documents shall govern in the order listed herein. Contractor is reminded and hereby recognizes that all Work under this Contract must comply with all applicable federal, state and local law. Any mandatory clauses which are required by applicable law shall be deemed to be incorporated herein.
- 4.2 This Contract incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of these Contract Documents that are not contained herein. Accordingly it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

- 4.3 The Contract Documents shall remain the property of the Village. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; however in no circumstances shall the Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the Village's prior written authorization.

ARTICLE 5

INDEMNIFICATION

- 5.1 Contractor shall defend, indemnify, and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, including legal fees and costs and through appeal, arising out of or, related to, or in any way connected with Contractor's performance or non-performance of this Contract or with Contractor's obligations or the Work related to this Contract, including by reason of any damage to property or bodily injury or death incurred or sustained by any party. The Contractor shall defend, indemnify, and hold the Village harmless from all losses, injuries or damages and wages or overtime compensation due its employees in rendering services pursuant to this Contract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act or any employment related litigation or worker's compensation claims under federal or state law. The Contractor shall further defend, indemnify, and hold the Village harmless from all fines, citations, court judgments, insurance claims, restoration costs or other losses or liabilities arising out of or, related to, or in any way connected with Contractor's performance or non-performance of this Contract or with Contractor's obligations or the Work related to this Contract. The provisions of this section shall survive termination of this Contract.

ARTICLE 6

INSURANCE

CONTRACTOR shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts not less than those specified below as satisfactory to VILLAGE, naming the VILLAGE as an Additional Insured, underwritten by an insurance company rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the VILLAGE, its officials, employees, agents and volunteers naming the VILLAGE as additional insured. Any insurance maintained by the VILLAGE shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverages shall include at a minimum the amounts set forth in this Section 6 and may be increased by the VILLAGE as it deems necessary or prudent.

- (a) Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of CONTRACTOR. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.
- (b) Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the CONTRACTOR shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.
- (c) Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.
- (d) **Certificate of Insurance.** Certificates of Insurance shall be provided to the VILLAGE, reflecting the VILLAGE as an Additional Insured, no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by VILLAGE and prior to commencing any Services. Each certificate shall include no less than (30) thirty-day advance written notice to VILLAGE prior to cancellation, termination, or material alteration of said policies or insurance. The CONTRACTOR shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the VILLAGE. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The VILLAGE reserves the right to inspect and return a certified copy of such policies, upon written request by the VILLAGE. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy

certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the VILLAGE before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the VILLAGE.

- (e) **Additional Insured.** The VILLAGE is to be specifically included as an Additional Insured for the liability of the VILLAGE resulting from Services performed by or on behalf of the CONTRACTOR in performance of this Agreement. The CONTRACTOR'S insurance, including that applicable to the VILLAGE as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the VILLAGE shall be in excess of and shall not contribute to the CONTRACTOR'S insurance. The CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.
- (f) **Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the VILLAGE. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.
- (g) The provisions of this section shall survive termination of this Agreement.

ARTICLE 7

CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

In order to induce the Village to enter into this Contract, the Contractor makes the following representations and warranties:

7.1 Contractor represents the following:

- 7.1.1 Contractor has examined and carefully studied the Contract Documents and any other data identified in the bidding documents, including, without limitation, the "technical data" and plans and specifications.
- 7.1.2 Contractor has visited the Project site and become familiar with and is satisfied as to the general and local conditions and site conditions that may affect cost, progress, performance or furnishing of the Work.
- 7.1.3 Contractor is familiar with and is satisfied as to all federal, state and local

laws, regulations and permits that may affect cost, progress, performance and furnishing of the Work. Contractor agrees that it will at all times comply with all requirements of the foregoing laws, regulations and permits.

- 7.1.4 Contractor has made, or caused to be made, examinations, investigations, tests and/or studies as necessary to determine surface and subsurface conditions at or on the Project site. Contractor acknowledges that the Village does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground or ground facilities at, contiguous or near the Project site or for existing improvements at or near the Project site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities and improvements) at, contiguous or near to the Project site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Time as specified in Article 2 of this Contract and in accordance with the other terms and conditions of the Contract Documents.
- 7.1.5 Contractor is aware of the general nature of Work to be performed by the Village and others at the Project site that relates to the Work as indicated in the Contract Documents.
- 7.1.6 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Project site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- 7.1.7 Contractor has given Village written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Village is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 7.1.8 The Contractor agrees and represents that it possesses the requisite skills to perform the Work and that the Work shall be executed in a good and

workmanlike manner, free from defects, and that all materials shall be new and approved by or acceptable to Village, except as otherwise expressly provided for in the Contract Documents. The Contractor shall cause all materials and other parts of the Work to be readily available as and when required or needed for or in connection with the construction, furnishing and equipping of the Project.

7.2 Contractor warrants the following:

- 7.2.1 Anti-Discrimination: Contractor agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Contract because of race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and agrees to abide by all federal and state laws regarding non-discrimination.
- 7.2.2 Anti-Kickback: Contractor warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the Village has any interest, financially or otherwise, in the Project. For breach or violation of this warranty, the Village shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.
- 7.2.3 Licensing and Permits: Contractor warrants that it shall have, prior to commencement of Work under this Contract and at all times during said Work, all required licenses and permits whether federal, state, County or Village. Contractor acknowledges that it is the obligation of Contractor to obtain all licenses and permits required for this Project. The permits are:

Village Permits, including Public Works Right-of-Way Permit.

ARTICLE 8

DEFAULT AND TERMINATION

- 8.1 If Contractor fails to timely begin the Work, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work within the Contract Time as specified in Article 2, or shall perform the Work unsuitably, or cause it to be rejected as defective and

unsuitable, or shall discontinue the prosecution of the Work pursuant to the Contract Time, or if the Contractor shall fail to perform any material term set forth in the Contract Documents, or if Contractor shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Village may, upon seven (7) days written Notice of Termination, terminate the services of Contractor, exclude Contractor from the Project site, provide for alternate prosecution of the Work, appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable, and may finish the Work by whatever methods it may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Project is completed. All damages, costs and charges incurred by Village, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. In case the damages and expenses so incurred by Village shall exceed monies due Contractor from Village, Contractor shall be liable and shall pay to Village the amount of said excess promptly upon demand therefore by Village. In the event it is adjudicated that Village was not entitled to terminate the Contract as described hereunder for default, the Contract shall automatically be deemed terminated by Village for convenience as described below.

- 8.2 This Contract may be terminated by the Village for convenience upon seven (7) calendar days' written notice to the Contractor. In the event of such a termination, the Contractor shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subcontractor obligations. The Contractor shall be compensated for all services performed through the date of termination to the satisfaction of the Village. In such event, the Contractor shall promptly submit to the Village its Application for Payment for final payment which shall comply with the provisions of the Contract Documents.
- 8.3 Notwithstanding the provisions of Article 16 of the General Conditions and Article 18 of the Supplementary Conditions of the Contract Documents, the Village shall have the rights of termination set forth in this Section 8 without any requirement or condition precedent that a claim or dispute be subject to dispute resolution procedures or mediation. The Village shall have the right to terminate the Contract as set forth in this Section 8 without any requirement for dispute resolution or mediation.

ARTICLE 9

MISCELLANEOUS

9.1 **No Assignment.**

Neither party shall assign the Contract or any sub-contract in whole or in part without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder, without the previous written consent of the Village Manager.

9.2 **CONTRACTOR'S RESPONSIBILITY FOR DAMAGES AND ACCIDENTS.**

- 9.2.1 Contractor shall accept full responsibility for the Work against all loss or damage of any nature sustained until final acceptance by Village, and shall promptly repair any damage done from any cause.
- 9.2.2 Contractor shall be responsible for all materials, equipment and supplies pertaining to the Project. In the event any such materials, equipment and supplies are lost, stolen, damaged or destroyed prior to final acceptance by Village, Contractor shall replace same without cost to Village.

9.3 **DEFECTIVE WORK: WARRANTY AND GUARANTEE.**

- 9.3.1 Unless otherwise provided for in the Contract Documents, all materials and equipment incorporated into any Work covered by this Contract shall be new and of the most suitable grade of their respective kinds for their intended use, and all workmanship shall be in accordance with construction practices acceptable to Village. Contractor warrants to Village all labor, equipment and materials furnished or performed under this Contract against defects in materials and workmanship. Village shall have the authority to reject or disapprove Work which the Village finds to be defective. If required by the Village, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with nondefective Work. Contractor shall bear all direct, indirect and consequential costs of such removal or corrections, including the cost of testing laboratories and personnel.
- 9.3.2 Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by Village's Project Consultant, Village shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary, at Contractor's expense. Any expense incurred by Village in making such removals, corrections or repairs, shall be paid for out of any monies due or which may become due to Contractor. In the event of failure of Contractor to make all necessary repairs promptly and fully, Village may declare Contractor in default.
- 9.3.3 The Contractor shall unconditionally warrant and guarantee all labor, materials and equipment furnished and Work performed, regardless of whether the same were performed by the Contractor or by any of its subcontractors, for a period of one (1) year from the date of Substantial Completion as required by Florida law, unless longer warranties or guarantees are provided for elsewhere in the Contract Documents, in which case the longer periods of time shall prevail. If, within one (1) year after the

date of substantial completion, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor, after receipt of written notice from Village, shall promptly correct such defective or nonconforming Work within the time specified by Village without cost to Village. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Contractor might have under the Contract Documents including but not limited to any claim regarding latent defects. Contractor shall provide and assign to Village all material and equipment warranties upon completion of the Work hereunder.

- 9.3.4 Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect is discovered.

9.4 **LEGAL RESTRICTIONS AND HOURS OF WORK.**

Contractor shall conform to and obey all applicable laws, regulations, or ordinances with regard to labor employed, hours of Work and Contractor's general operations. Contractor shall conduct its operations so as not to interfere with or close any road, right-of-way or access area, without the written consent of the Village or governing jurisdiction. Work is anticipated to be performed Monday through Friday in accordance with the requirements and limitations of applicable law including, without limitation, Chapter 17 of the Village Code. The Contractor shall not perform Work beyond the time and days provided herein without the prior written approval of the Village.

9.5 **EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS.**

- 9.5.1 Village or any of its duly authorized representatives shall, until three (3) years after final payment under this Contract, have access to and the right to examine any of the Contractor's books, ledgers, documents, papers, or other records involving transactions related to this Contract ("Records") for the purpose of making audit, examination, excerpts, and transcriptions. In addition, the Contractor agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes
- 9.5.2 The Contractor agrees to include in any subcontractor contracts for this Project corresponding provisions for the benefit of Village providing for retention and audit of records.
- 9.5.3 The right to access and examination of records stated herein and in any subcontracts shall survive termination or expiration of this Contract and continue until disposition of any mediation, claims, litigation or appeals related to this Project.
- 9.5.4 The Village may cancel and terminate this Contract immediately for refusal by the Contractor to allow access by the Village Manager or his designee to any

Records pertaining to Work performed under this Contract that are subject to the provisions of Chapter 119, Florida Statutes.

9.6 **NO DAMAGES FOR DELAY.**

Contractor shall not be entitled to and hereby waives any and all damages or any claim by reason of delay against Village, and shall have no claim other than for an extension of time by reason of any delays. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from Village for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to, lost profits, overhead, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable or whether or not caused by Village. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay. Notwithstanding the above, Contractor may be granted an extension of time and suspension of liquidated damages for any delay beyond the reasonable control of the Contractor. Should any delay, disruption, interference or hindrance be solely and intentionally caused by the Village, for a continuous period or cumulative period of thirty (30) days, the Contractor may terminate the Contract upon fifteen (15) days written notice to the Village.

9.7 **AUTHORIZED REPRESENTATIVE.**

9.7.1 Before commencing the Work, Contractor shall designate a competent, authorized representative ("Authorized Representative") acceptable to Village to represent and act for Contractor and shall inform Village, in writing, of the name and address of such representative together with a clear definition of the scope of his authority to represent and act for Contractor. Contractor shall keep Village informed of any subsequent changes in the foregoing. Such representative shall be present or duly represented at the Project site at all times when Work is actually in progress. All notices, determinations, instructions and other communications given to the authorized representatives of Contractor shall be binding upon the Contractor.

9.7.2 The Authorized Representative, project managers, superintendents and supervisors for the Project are all subject to prior and continuous approval of Village. If, at any time during the term of this Contract, any of the personnel either functionally or nominally performing any of the positions named above, are, for any reasonable cause whatsoever, unacceptable to Village, Contractor shall replace the unacceptable personnel with personnel acceptable to Village.

9.8 **TAXES.**

Contractor shall pay all taxes, levies, duties and assessments of every nature which may be applicable to any Work under this Contract. The Contract Price and any

agreed variations thereof shall include all taxes imposed by law at the time of this Contract. Contractor shall make any and all payroll deductions required by law. Contractor herein indemnifies and holds Owner harmless from any liability on account of any and all such taxes, levies, duties and assessments.

9.9 **UTILITIES.**

Contractor shall, at its expense, arrange for, develop and maintain all utilities at the Project to perform the Work and meet the requirements of this Contract. Such utilities shall be furnished by Contractor at no additional cost to Village. Prior to final acceptance of the Work, Contractor shall, at its expense, satisfactorily remove and dispose of all temporary utilities developed to meet the requirements of this Contract.

9.10 **SAFETY.**

Contractor shall be fully and solely responsible for safety and conducting all operations under this Contract at all times in such a manner as to avoid the risk of bodily harm to persons and damage to property. Contractor shall continually and diligently inspect all Work, materials and equipment to discover any conditions which might involve such risks and shall be solely responsible for discovery and correction of any such conditions. Contractor shall have sole responsibility for implementing its safety program. Village shall not be responsible for supervising the implementation of Contractor's safety program, and shall not have responsibility for the safety of Contractor's or its subcontractor's employees. Contractor shall maintain all portions of the Project site and Work in a neat, clean and sanitary condition at all times. Contractor shall assure that subcontractors performing Work comply with the foregoing safety requirements.

9.11 **CLEANING UP.**

Contractor shall, at all times, at its expense, keep its Work areas in a neat, clean and safe condition. Upon completion of any portion of the Work, Contractor shall promptly remove all of its equipment, construction materials, temporary structures and surplus materials not to be used at or near the same location during later stages of Work. Upon completion of the Work and before final payment is made, Contractor shall, at its expense, satisfactorily dispose of all rubbish, unused materials and other equipment and materials belonging to it or used in the performance of the Work and Contractor shall leave the Project in a neat, clean and safe condition. In the event of Contractor's failure to comply with the foregoing, the same may be accomplished by Village at Contractor's expense.

9.12 **RIGHTS AND REMEDIES.**

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder and in accordance with this Contract shall be in

addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

9.13 **PUBLIC ENTITY CRIMES AFFIDAVIT.**

Contractor shall comply with Section 287.133, Florida Statutes, (Public Entity Crimes Statute) notification of which is hereby incorporated by reference, including execution of any required affidavit.

9.14 **CAPITALIZED TERMS.**

Capitalized terms shall have their plain meaning as indicated herein.

9.15 **INDEPENDENT CONTRACTOR.**

The Contractor is an independent contractor under this Contract. This Contract does not create any partnership nor joint venture. Services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the Village. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures, applicable to services rendered under the Contract shall be those of the Contractor.

9.16 **PAYMENT TO SUB-CONTRACTORS.**

Certification of Payment to Subcontractors: The term "subcontractor", as used herein, includes persons or firms furnishing labor, materials or equipment incorporated into or to be incorporated into the Work or Project. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts as a condition precedent to payment to Contractor by the Village. The Contractor shall also return all retainage withheld to the subcontractors within 30 days after the subcontractor's work is satisfactorily complete and accepted by the Village.

9.17 **LIENS.**

Contractor shall not permit any mechanic's, laborer's or materialmen's lien to be filed against the Project site or any part thereof by reason of any Work, labor, services or materials supplied or claimed to have been supplied to the Project. In the event such a lien is found or claimed against the Project, Contractor shall within ten (10) days after notice of the lien discharge the lien or liens and cause a satisfaction of such lien to be recorded in the public records of Miami-Dade County, Florida, or cause such lien to be transferred to a bond, or post a bond sufficient to cause the Clerk of the Circuit Court of Miami-Dade County, Florida, to discharge such lien pursuant to Chapter 713.24, F.S. In the event Contractor fails to so discharge or bond the lien or liens within such period as required above, Village shall thereafter have the right, but not the obligation, to

discharge or bond the lien or liens. Additionally, Village shall thereafter have the right, but not the obligation, to retain out of any payment then due or to become due Contractor, one hundred fifty percent (150%) of the amount of the lien and to pay Village's reasonable attorneys' fees and costs incurred in connection therewith.

9.18 **GOVERNING LAW.**

This Contract shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any litigation arising out of this Contract shall be proper exclusively in Miami-Dade County, Florida.

9.19 **WAIVER OF JURY TRIAL.**

Village and Contractor knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract for Construction, arising out of, under, or in connection with the Construction of the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party.

9.20 **Notices/Authorized Representatives.**

Any notices required by this Contract shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Village: John C. Gilbert
Village Manager
88 W. McIntyre Street
Key Biscayne, Florida 33149

With a copy to: Stephen Helfman, Esq.
Village Attorney
Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Blvd.
Coral Gables, Florida 33134

For The Contractor: Edrey Rodriguez
President
E & M Equipment Corp.
3450 West 84th Street, Suite 202B
Hialeah, Florida 33018

SIGNATURE PAGES FOLLOW ON THE NEXT PAGES

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: VILLAGE OF KEY BISCAYNE, FLORIDA, signing by and through its Village Manager authorized to execute same by Council action on the _____, and E & M Equipment Corp., signing by and through, EUREY RODRIGUEZ duly authorized to execute same.

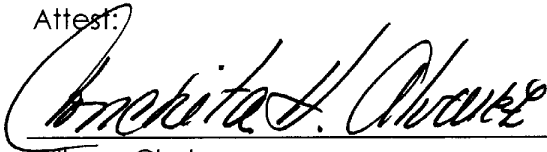
VILLAGE:

Village of Key Biscayne, Florida, a Florida municipal corporation

By: 
John C. Gilbert, Village Manager


Date Executed: 3/19/15

Attest:


Village Clerk



Approved as to Form
and Legal Sufficiency:


Village Attorney

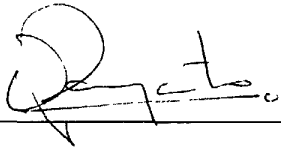
CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION FORMAT, AS APPLICABLE.

CONTRACTOR:

E & M Equipment Corp., a Florida corporation

ATTEST:

(Secretary)



By: _____

Name: EDIEY RODRIGUEZ

Title: PRESIDENT

Date Executed: 03/04/2015

This is the *front page* of the performance/payment bond issued in compliance with Florida Statute Chapter 255.05

Surety Name: International Fidelity Insurance Company
One Newark Center 20th Floor
Newark, NJ 07102-5207
(877) 217-2056

Bond Number: 0648391

Contractor Name: E & M Equipment Corp
3450 W. 84th Street, #202 A&B
Hialeah, FL, 33018
(877) 217-2056

Owner Name: Village of Key Biscayne
88 West McIntyre Street, Ste. 220
Key Biscayne, FL 33149
(305) 365-5511

Project Number: N/A

Project Description: Outfall O-15R at 398 Harbor Dr.

Project Address: Village of Key Biscayne, Miami Dade County, FL

Legal Description of Property: Outfall O-15R at 398 Harbor Dr.

This is the *front page* of the bond. All other pages are subsequent regardless of the pre-printed numbers.

ATTACHMENT A
OUTFALL O-15R AT 398 HARBOR DR
Village of Key Biscayne, Florida
Tetra Tech, Inc. Project
Number: 200-15760-14003

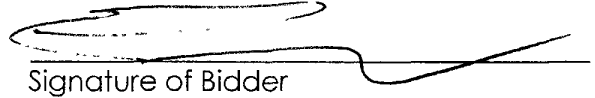
BID FORM

Bid unit prices stated in this proposal include all costs and expenses for labor, equipment, materials, contractor's overhead and profit. Unit prices for the various work items are intended to establish a total price for completing the project in its entirety. The Contractor shall include in the Bid price any work item and materials for which a separate pay item has not been included in the Bid Form. All work and incidental costs shall be included for payment under the several scheduled items of the overall contract, and no separate payment will be made therefore.

SCHEDULE OF BID ITEMS					
FDOT Item No.	Description	Unit	Estimated Quantity	Unit Cost	Total
Outfall O-15R Improvements at 398 Harbor Drive					
1	Allowance Account	LS	1	\$ 10,000.00	\$ 10,000.00
2	Mobilization and Demobilization	LS	1	\$ 12,000.00	\$12,000.00
3	Indemnification	LS	1	\$ 25.00	\$ 25.00
4	Performance and Payment Warranty & Insurance	LS	1	\$ 3,000.00	\$ 3,000.00
5	Maintenance of Traffic	LS	1	\$ 11,125.00	\$ 11,125.00
6	Erosion Control & Turbidity Barrier	LS	1	\$ 2,400.00	\$ 2,400.00
7	Clearing and Grubbing	LS	1	\$ 22,200.00	\$ 22,200.00
8	Removal of Existing Structure	LS	1	\$ 780.00	\$ 780.00
9	FDOT Type "E" Inlet	EA	1	\$ 5,450.00	\$ 5,450.00
10	FDOT Type "J" Bottom Manhole	EA	1	\$ 7,690.00	\$ 7,690.00
11	24" HDPE Pipe	LF	320	\$ 96.00	\$ 30,720.00
12	Furnish and Install Riprap-Rubble, Bank and Shore	TN	10	\$ 370.00	\$3,700.00
13	Furnish & Install 24-inch Duck-Bill backflow prevention valve	EA	1	\$ 16,120.00	\$ 16,120.00

14	Furnish & Install Manatee Grate	EA	1	\$ 5,000.00	\$ 5,000.00
15	Seawall Opening Connection (Core Drilling, 2-Concrete Collars)	LS	1	\$ 5,500.00	\$ 5,500.00
16	Utilities Relocation Restoration	LS	1	\$ 7,830.00	\$ 7,830.00
	TOTAL BID				\$ 143,540.00
TOTAL BID IN WORDS	One Hundred Forty Three Thousand, Five Hundred Forty Dollars and Zero Cents				

E&M Equipment Corp.
Name of Bidder


Signature of Bidder

GRAND TOTAL (BASE BID) IN FIGURES (LUMP SUM): \$ 143,540.00

GRAND TOTAL (BASE BID) WRITTEN: One Hundred Forty Three Thousand, Five Hundred Forty Dollars and Zero Cents.

BIDDER: E&M Equipment Corp.

By: Edrey Rodriguez

Title: President

Telephone 305-824-1700 Fax 305-824-1740

SECTION 00610

r

SS

KNOW ALL MEN BY THESE PRESENTS, that E & M Equipment Corp. as

Surety, hereinafter called Surety, are held and firmly bound unto the Village of

One Hundred Forty Three Thousand Five

Hundred Forty and XX/100 of Dollars (\$ 143,540.00) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, contractor has by written agreement dated _____ 20____
_____, entered into a Contract with Owner for:

OUTFALL O-15R AT 398 HARBOR DR
Village of Key Biscayne, Florida

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that, if the Contractor shall in all respects promptly and faithfully perform and comply with the terms and conditions of said Contract and his obligations thereunder and shall indemnify the Owner and the Consulting Engineer and save either or all of them harmless from and from all costs, expenses and damages arising from the performance of the Contract or the repair of any work thereunder, then this obligation shall be void; otherwise, this Bond shall remain in full force and effect, in accordance with the foregoing terms and conditions:

- A. The Principal and Surety jointly and severally agree to pay the Owner any difference between the sum to which the said Principal would be entitled on the completion of the Contract, and that sum which the Owner may be obliged to pay for the completion of said work by Contract or otherwise, and any damages, direct or indirect or consequential, which the said Owner may sustain on account of such work, or on account of the failure of said Contractor to properly and in all things, keep and execute all of the provision of said Contract.
- B. And this Bond shall remain in full force and effect for a period of one (1) year from the date of acceptance of the project by the Owner and shall provide that the Contractor guarantees to repair or replace for said period of one (1) year all work performed and materials and equipment furnished that were not performed or furnished according to the terms of the Contract, and shall make good, defects thereof which have become apparent before the expiration of said period of one (1) year. If any part of the project, in the judgment of the Owner, for the reasons above stated needs to be replaced, repaired or made good during that time, the Owner shall so notify the Contractor in writing. If the Contractor refuses or neglects to do such work within five (5) days from the date of service of such Notice, the Owner shall have the work done by others and the cost thereof shall be paid by the Contractor or his Surety.
- C. And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive Notice of any change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.
- D. The surety represents and warrants to the Owner that they have a Best's Key Rating Guide General Policyholder's Rating of "A-Excellent" and Financial Category of "Class VI (\$50 Million to \$100 Million)".

IN WITNESS WHEREOF, the above bounded parties executed this instrument under their several seals, this _____ day of _____ 20____, A.D., the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

WITNESS: (If Sole Ownership or Partnership, two (2) Witnesses Required).

(If Corporation, Secretary Only will attest and affix seal).

WITNESSES:

PRINCIPAL: E & M Equipment Corp.



Signature of Authorized Officer
(Affix Seal)

Edrey Rodriguez, President

Title

3450 W. 84th Street, Ste. 202 A&B

Business Addresses

Hialeah, FL 33018

City, State & Zip Code

WITNESSES:

SURETY: International Fidelity Insurance Company

Carmen E. Pilot

Corporate Surety

Michael A. Bonet, Attorney-In-Fact

Elizabeth Hung

Title

One Newark Center 20th Floor

Business Address

Newark, NJ 07102-5207

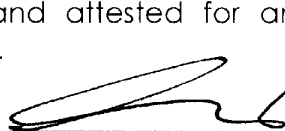
City, State & Zip Code

Kahn Carlin & Co., Inc.

Name of Local Insurance Agency

CERTIFICATES AS TO CORPORATE PRINCIPAL

I, Eduy Rodriguez certify that I am the Secretary of the Corporation names as Principal in the within Bond; that ___ who signed the said bond on behalf of the Principal, was the ___ of said Corporation; that I know his signature, and his signature hereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.


Secretary (Corporate Seal)

STATE OF FLORIDA)

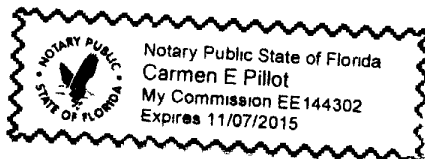
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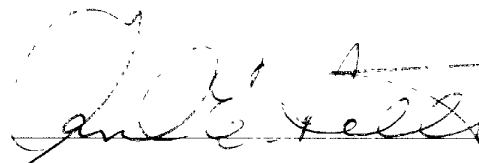
COUNTY OF _____)
Miami Dade

Before me, a Notary Public, duly commissioned, qualified and acting, personally appeared Michael A. Bonet to me well known, who being by me first duly sworn upon oath, says that he is the Attorney in Fact, for the and that he has been authorized by International Fidelity Insurance Company to execute the foregoing bond on behalf of the Contractor named therein in favor of the Village of Key Biscayne, Florida.

Sworn and subscribed to before me this 5th day of March 20 15 A.D.

(Attach Power of Attorney)




Notary Public - State of Florida at Large

My Commission Expires: November 7, 2015

END OF SECTION

SECTION 00620
PAYMENT BOND

SS
COUNTY OF)
Miami Dade

20 **WHEREAS,** Contractor has by written agreement dated __
, entered into a Contract with Owner for:

in accordance with Drawings and Specifications prepared by Tetra Tech, Inc. which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

A. A claimant is defined as any person supplying the Principal with labor, material and supplies, used directly or indirectly by the said Principal or any subcontractor in the prosecution of the work provided for in said Contract, and is further defined in Section 255.05(1) of the Florida Statutes.

B. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full

before the expiration of a period of ninety (90) days after performance of the labor or after complete delivery of materials and supplies by such claimant, may sue on this Bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

C. No suit or action shall be commenced hereunder by any claimant.

1. Unless claimant, other than one having a direct contract with the Principal, shall within forty five (45) days after beginning to furnish labor, materials or supplies for the prosecution of the work, furnish the Principal with a notice that he intends to look to this bond for protection.
2. Unless claimant, other than one having a direct contract with the Principal, shall within ninety (90) days after such claimant's performance of the labor or complete delivery of materials and supplies, deliver to the Principal written notice of the performance of such labor or delivery of such material and supplies and the nonpayment therefore.
3. After the expiration of one (1) year from the performance of the labor or completion of delivery of the materials and supplies; it being understood, however, that if any limitation embodied in this Bond is prohibited by any law controlling the construction hereof such limitations shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
4. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

D. The Principal and the Surety jointly and severally, shall repay the Owner any sum which the Owner may be compelled to pay because of any lien for labor or materials furnished for any work included in or provided by said Contract.

E. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration of or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications applicable thereto shall in any way affect its obligations on this Bond, and the Surety hereby waives notice of any such change, extension of time, alterations of or addition to the terms of the Contract, or to the work or to the Specifications.

F. The Surety represents and warrants to the Owner that they have a Best's Key Rating Guide General Policyholder's rating of " A-Excellent " and Financial Category of "Class VI (\$50 Million to \$100 Million) ".

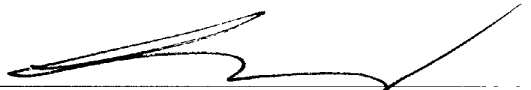
IN WITNESS WHEREOF, the above bounded parties executed this instrument under their several seals, this _____ day of _____ 20____, A.D., the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

WITNESS: (If Sole Ownership or Partnership, two (2) Witnesses Required).
(If Corporation, Secretary Only will attest and affix seal).

WITNESSES:

PRINCIPAL: E & M Equipment Corp.





Signature of Authorized Officer
(Affix Seal)

Edrey Rodriguez, President

Title

3450 W. 84th Street, Ste. 202 A&B

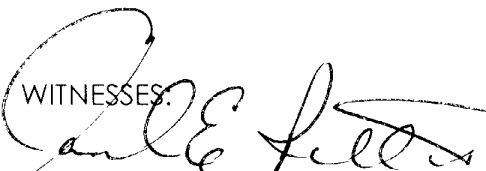
Business Addresses

Hialeah, FL 33018

City, State & Zip Code

WITNESSES:

SURETY: International Fidelity Insurance Company


Carmen E. Pilot

Corporate Surety

Michael A. Bonet, Attorney-In-Fact

Title

One Newark Center 20th Floor

Business Address

Newark, NJ 07102-5207

City, State & Zip Code

Kahn Carlin & Co., Inc.

Name of Local Insurance Agency


Elizabeth Hung

POWER OF ATTORNEY

INTERNATIONAL FIDELITY INSURANCE COMPANY ALLEGHENY CASUALTY COMPANY

ONE NEWARK CENTER, 20TH FLOOR NEWARK, NEW JERSEY 07102-5207

KNOW ALL MEN BY THESE PRESENTS: That **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and **ALLEGHENY CASUALTY COMPANY** a corporation organized and existing under the laws of the State of Pennsylvania, having their principal office in the City of Newark, New Jersey, do hereby constitute and appoint

ROY V. FABRY, MICHAEL A. BONET

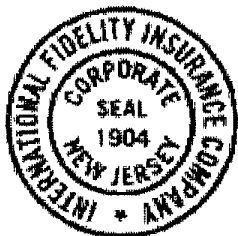
Miami, FL.

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 20th day of July, 2010 and by the Board of Directors of ALLEGHENY CASUALTY COMPANY at a meeting duly held on the 15th day of August, 2000.

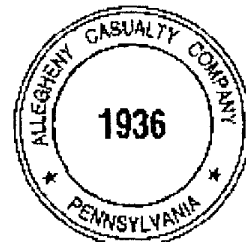
"RESOLVED, that (1) the President, Vice President, Executive Vice President or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY have each executed and attested these presents on this 22nd day of July, 2014.



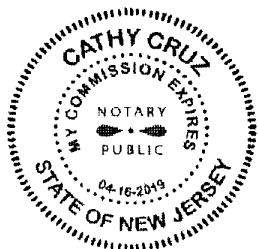
STATE OF NEW JERSEY
County of Essex

ROBERT W. MINSTER
Executive Vice President/Chief Operating Officer
(International Fidelity Insurance Company)
and President (Allegheny Casualty Company)



On this 22nd day of July 2014, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.



A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 16, 2019

CERTIFICATION

I, the undersigned officer of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand this

day of

MARIA BRANCO, Assistant Secretary